NOTE REGARDING CORRESPONDENCE ADDRESS

On September 10, 2008, Applicant's representative submitted a change of correspondence address form changing the correspondence address for the present application to the representative's address in Toronto, Ontario, Canada. On September 17, 2008, the Final Office Action was mailed to the previous address belonging to the Applicant, in Irving, Texas. The Examiner is respectfully requested to update the correspondence address, as requested in the filing of September 10, 2008.

REMARKS/ARGUMENTS

The Applicant submits this Response After Final with the objective of avoiding the need to appeal the final rejections. Applicant respectively submits that the rejections under 35 USC §103(a) are improper and constitute clear, reversible legal error and requests that they be withdrawn for at least the two reasons set forth below, namely that (1) there is no properly articulated rationale for combining the references in the manner suggested by the Examiner and (2) even if the references are combined, they do not disclose all of the limitations of Applicant's broadest claims.

The Examiner rejected claims 1, 7-9, and 12 under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 6,999,916 to Lin et al. ("Lin") in view of U.S. Patent No. 5,023,786 to Kugimiya et al. ("Kugimiya"). The Examiner further rejected claims 5, 6, 15, 16, and 20-25 under 35 U.S.C. § 103(a) as being obvious over Lin in view of Kugimiya and in further view of U.S. Patent No. 5,023,786 to Abir ("Abir").

(1) There is no Properly Articulated Rationale for Combining the References

In *KSR Int'l v. Teleflex Inc.*, 127 S. Ct. 1727, 82 USPQ2d 1385 (2007), (hereinafter "*KSR*"), the Supreme Court held that "[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some

articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." (*In re Kahn*, 441 F. 3d 977, 988 (CA Fed. 2006) cited with approval in *KSR*).

In the Final Office Action mailed September 17, 2008, independent claims 1, 9, and 12 are rejected under 35 USC 103(a) as being allegedly obvious in view of Lin and Kugimiya. The Examiner concedes that "Lin fails to teach the trigger symbol indicating which text to translate." The Examiner then states that "Kugimiya teaches a translating apparatus of the present invention includes the syntactic decision means which decides from the construction of the inputted sentence whether or not a relative clause of nonrestrictive use or a prepositional or indefinite phrase for modifying a verb accompanied by a comma located immediately before the phrase exists and the symbol generating means which generates in the translated sentence, the first and second symbols indicative of the start position and the end position of the relative clause or the prepositional or indefinite phrase when the relative clause or the prepositional or indefinite phrase exists."

The Examiner then concludes that "[I]t would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Lin to incorporate transmitted text to be translated in a wireless network utilizing trigger symbols to identify the portion of text to be translated as taught by Kugimiya to allow for the isolation of which text is desired as the translated portion, wherein the system will be able to recognize the tagged/triggered text by triggering proper grammar, syntax, and morphology rules for a specific language relevant to a selected portion, wherein a syntactic decision means which decides from the construction of the inputted sentence whether or not a relative clause of nonrestrictive use or a prepositional or indefinite phrase for modifying a verb accompanied by a comma located immediately before the phrase exists and the symbol generating means which generates in the translated sentence (Kugimiya Col. 5 lines 50-63)."

With respect, this is a mere conclusory statement of an unsubstantiated legal conclusion. Applicant respectfully submits that the Examiner has failed to articulate a rational basis for combining the references, which thus effectively deprives Applicant of a careful, thorough, professional examination of the claims (as required by *KSR*). The Examiner's offering of the reason to combine is nothing more than a statement of the admitted feature missing from Lin followed by a quote from Kugimiya.

The Examiner has merely made a number of loose statements about Lin and Kugimiya without addressing the crux of the matter, which is *why* a person of ordinary skill in the art would have been led to combine these references? In other words, a properly reasoned rejection under 35 USC 103 would need, at the very least, to answer the question as to what would lead a person of ordinary skill in the art, who begins with the Lin reference, to look at the Kugimiya reference. Furthermore, it remains incumbent upon the Office to explain how a person of ordinary skill would have, in the very first place, even *recognized* that the system for translating web sites of Lin or the translator which recognizes prepositional or indefinite phrases and relative clauses of Kugimiya could be used to address the problem of translating of text composed by a user of a wireless communications device. These questions remain unanswered by the various Office Actions to date.

In view of the foregoing, Applicant respectfully submits that the obviousness rejections are not properly substantiated by appropriately articulated reasons setting forth why the combination of references would be obvious. Absent any properly articulated reasoning, Applicant respectfully submits that the Examiner is merely engaged in an *ex post facto* reconstruction of the invention, which therefore constitutes a further reversible legal error.

(2) Even if the References are Combined, They Do Not Disclose All of the Features of Applicant's Broadest Claims

The present application concerns the translation of text to be composed by a user of a wireless communications device. In this regard, claim 1 recites, in a wireless communications device enabled for communication in a wireless communications network, a method of translating a portion of a text-based communication to be transmitted from the wireless device, comprising: determining which text of the text-based communication is to be translated by continually monitoring the text-based communication for the presence of a trigger symbol, the trigger symbol indicating which text to translate; sending a translation request, the translation request configured for reception by a translation service means and comprising the text to be translated; receiving and associatively storing with the indicated text a translation thereof, from a first language to a second language; stopping the continual monitoring of the text-based communication upon detecting an indication that the text-based communication is to be sent; providing one or more prompts, such that there is one prompt corresponding to each previously translated text and further where each prompt comprises the corresponding translation; and sending the text-based communication after a response has been received for each prompt.

In contrast, Lin concerns the translation of text retrieved from WEB sites. For example, the Field of Invention portion of Lin states the invention relates to an apparatus and integrated method for acquisition of information relating to specific user-selected text of World Wide Web site pages, and more particularly to an apparatus and site-integrated method for providing high quality multi-lingual translations, explanations, and consolidated automatic multi-dictionary definitions of such text, in text, voice, image or multi-media format. (emphasis added) Therefore, at the very outset, the teachings of Lin diverge substantially from the subject matter recited in the pending claims.

The prior art fails to teach or suggest a method of translating a portion of a text-based communication to be transmitted from a wireless communications device.

The Examiner points to Col. 5, line 55 to Col. 6, line 15 of Lin, with regards to the claimed method of translating a portion of a text-based communication to be transmitted from a wireless communications device in a wireless communications network. Contrary to the Examiner's allegation, there is nothing in the cited portion of Lin that suggests that the selected text is not specific user-selected text of World Wide Web site pages, as defined and explained by Lin. Therefore, it cannot be fairly suggested that the cited portion of Lin teaches or suggests a method of translating a portion of a text-based communication to be transmitted from a wireless communications device, as presently claimed. To the contrary, Lin suggests the opposite approach, where text or voice is selected on a WEB site and is translated using a site integrated method, for delivering the translated text to the wireless device. Further, the material translated by Lin is not a portion of a text-based communication, as claimed.

In the Final Office Action of September 17, 2008, the Examiner points to a number of additional sections of Lin and seems to suggest that because Lin discloses servers, wireless devices, and voice translations that Lin must teach the feature of translating a portion of a text-based communication to be transmitted from a wireless communications device. To the contrary, even in the embodiments of Lin that involve voice translation, Lin clearly states in Columns 15 and 16 that the voice is sent to a WAP server where voice to text conversion and translation occurs. Lin simply does not teach or suggest translating a portion of a text-based communication to be transmitted from a wireless communications device, as claimed. None of the other cited references disclose this claimed feature.

The prior art fails to disclose sending a translation request, the translation request configured for reception by a translation service means and comprising the text to be translated.

The Examiner points to Col. 8, lines 5-15 and FIG. 9 of Lin in respect of the claimed step of sending a translation request, the translation request configured for

reception by a translation service means and comprising the text to be translated. The cited portion of Lin states that a voice message is sent to the WAP server, where voice recognition software converts the voice to text. This is in direct contrast to the claimed subject matter, which recites sending a translation request, the translation request configured for reception by a translation service means and comprising the text to be translated. In the claimed subject matter, the text to be translated is sent by the wireless device. Further, it is noted that the translation of the voice message in Lin is returned to a slave device, whereas the original message is sent by a master device. In contrast, the pending claims recite that the text to be translated is sent by and the translation received by the same wireless communications device. Therefore, again, the teachings of Lin substantially diverge from the claimed subject matter.

In the Final Office Action of September 17, 2008, the Examiner points to a number of additional sections of Lin and seems to suggest that because Lin discloses servers, wireless devices, and voice translations that Lin must teach the feature of *sending a translation request, the translation request configured for reception by a translation service means and comprising the text to be translated.* To the contrary, even in the embodiments of Lin that involve voice translation, Lin clearly states in Columns 15 and 16 that the voice is sent to a WAP server where voice to text translation occurs. Lin simply does not teach or suggest *sending a translation request that includes the text to be translated*, as claimed. Any text-based communication to be translated in the disclosure of Lin is not transmitted from a wireless communications device, as claimed, nor does the request sent by the wireless communications device include the text to be translated. None of the other cited reference disclose this claimed feature.

The prior art fails to teach or suggest receiving and associatively storing with the indicated text a translation thereof, from a first language to a second language.

As pointed out in the Applicant's previous response of July 8, 2008, the Examiner points to Col. 7, lines 26-39 and FIG. 7A of Lin with regards to the claimed receiving and

associatively storing with the indicated text a translation thereof, from a first language to a second language. The Applicant is unable to find anything in the cited portion of Lin or anywhere in Lin that teaches or suggests receiving and associatively storing with the indicated text a translation thereof, from a first language to a second language, in a wireless communications device, as claimed. Further, the cited portion of Lin again refers to the situation where text is selected on a web site for translation, which is contrary to the claimed subject matter. Likewise, the Applicant is unable to find this claimed feature in any of the cited art. The Examiner does not appear to have addressed this argument in the Final Office Action of September 17, 2008, which leaves the Applicant in the untenable position of having to respond to a rejection to which no proper basis is provided.

The prior art fails to teach or suggest determining which text of the text-based communication is to be translated by continually monitoring the text-based communication for the presence of a trigger symbol, the trigger symbol indicating which text to translate.

The Examiner admits that Lin fails to disclose this feature, but points to Col. 5, lines 51-64 and FIG. 11 of Kugimiya with regards to the claimed determining which text of the text-based communication is to be translated by continually monitoring the text-based communication for the presence of a trigger symbol, the trigger symbol indicating which text to translate. The cited portion of Kugimiya discusses first and second symbols that indicate a start position and an end position of relative clauses or prepositional or indefinite phrases. The symbols indicate whether or not a relative clause of non-restrictive use or a prepositional or indefinite phrase exist in a string of text. The symbols discussed by Kugimiya are not trigger symbols indicating which text to translate, as claimed, and Kugimiya provides no motivation to use the symbols in this way.

At page 6 of the Final Office Action of September 17, 2008, the Examiner seems to recognize that Kugimiya does not teach determining which text of the text-based

communication is to be translated by continually monitoring the text-based communication for the presence of a trigger symbol, the trigger symbol indicating which text to translate. The Examiner then states, "Though, Kugimiya teaches the detection of prepositional or indefinite phrases, these types of input are considered text regardless, wherein users will not always send complete text/voice sentences wirelessly through cellular phones or other wireless means." With respect, the claimed feature in issue recites determining which text of the text-based communication is to be translated by continually monitoring the text-based communication for the presence of a trigger symbol, the trigger symbol indicating which text to translate. Regardless of the fact that prepositional or indefinite phrases are comprised of text, as the Examiner points out, this is not relevant to the issue at hand, being whether or not Kugimiya discloses continually monitoring the text-based communication for the presence of a trigger symbol, the trigger symbol indicating which text to translate. The symbols of Kugimiya simply do not indicate which text to translate. Rather, the symbols of Kugimiya indicate the presence of prepositional or indefinite phrases in text to be translated, which aides the system of Kugimiya in performing a translation. This is not the same as interpreting the presence of a symbol as a trigger as an instruction to begin translating a portion of text to translate, as indicated by the present claim language.

At page 7 of the Final Office Action of September 17, 2008, the Examiner then states, "The combination of Lin in view of Kugimiya clearly demonstrates the present invention, particularly specific limitations such as the use of trigger symbols. Kugimiya teaches input text surrounded by quotations, wherein a user can input text through the use of a keyboard or other buttons. When translation initiates, only the enclosed "translation" will be sent as a translation, wherein a user has the option to include text that he/she wishes not to be translated (Kugimiya Fig. 11). The quotations are functionally equivalent and equally effective to a general "trigger symbol" recited in the present

invention, wherein input text for translation is monitored relative to a trigger symbol, so that a system knows which text to translate."

Even if Kugimiya discloses the use of symbols, as the Examiner alleges, this still does not sufficiently address the issue at hand, being whether Kugimiya teaches or suggests determining which text of the text-based communication is to be translated by continually monitoring the text-based communication for the presence of a trigger symbol, the trigger symbol indicating which text to translate, as claimed. The answer is clearly no. Kugimiya clearly states in the section cited by the Examiner (Col. 5, ll. 50-63) that Kugimiya uses the symbols for indicating the start position and the end position of the relative clause or the prepositional indefinite phrase when the relative clause or the prepositional or indefinite phrase exists. If the claimed feature of determining which text of the text-based communication is to be translated by continually monitoring the text-based communication for the presence of a trigger symbol were applied to Kugimiya, Kugiomiya would only translate the relative clause or the prepositional indefinite phrase alone, which would entirely fail to meet the objectives of Kugimiya. This clearly illustrates that the Examiner's interpretation of Kugimiya is not soundly based.

Finally, the Examiner seems to suggest that the quotations shown in Figure 11 of Kugimiya are trigger symbols. It is clear from a simple reading of the text shown in Figure 11 that the quotations are used, in fact, to indicate a quotation. From Figure 11:

> "Dominance in memories allows you to advance technology, which is the precursor for dominance in the other fields," explains Jerry Sanders.

The quotation marks shown in Figure 11 are used in their conventional sense, to indicate a quotation by Jerry Sanders. There is nothing in the relevant description of Figure 11 found at Column 5 of Kugimiya that suggests that the quotation marks are used for any other purpose than to indicate the presence of a quotation.

It is submitted that the prior art fails to disclose the claimed feature of determining which text of the text-based communication is to be translated by continually monitoring the text-based communication for the presence of a trigger symbol, the trigger symbol indicating which text to translate, as claimed.

Further, it is submitted that the Examiner's suggestion that the quotation marks are in fact the same as the claimed trigger symbols is clear evidence that the Examiner is engaged in an *ex post facto* hindsight analysis using the Applicant's disclosure as motivation for picking bits and pieces of the prior art in an attempt to reconstruct the Applicant's claimed subject matter. This is strictly forbidden and constitutes further reversible legal error.

The prior art fails to teach or suggest providing one or more prompts, such that there is one prompt corresponding to each previously translated text and further where each prompt comprises the corresponding translation.

The Examiner points to Col. 4, lines 11-40, of Kugimiya, with respect to the claimed providing one or more prompts, such that there is one prompt corresponding to each previously translated text and further where each prompt comprises the corresponding translation. As mentioned in the Applicant's response of July 8, 2008, the Applicant is unable to find any portion of the cited section that teaches or suggests prompts, as claimed. The cited portion of Kugimiya certainly does not teach or suggest providing one or more prompts, such that there is one prompt corresponding to each previously translated text and further where each prompt comprises the corresponding translation, as claimed.

The Examiner does not appear to have addressed this argument in the Final Office Action of September 17, 2008, which again leaves the Applicant in the untenable position of having to respond to a rejection to which no proper basis is provided.

Conclusion

It is submitted that claim 1 is not obvious in view of Lin and/or Kugimiya, whether taken alone or in combination, because Lin and/or Kugimiya fail to teach or suggest many of the features recited in claim 1. Further, Lin explicitly teaches away from many of the features presently claimed. Independent claims 9 and 12 recite features similar to claim 1 and are patentable for the same reasons. The dependent claims depend either directly or indirectly from the independent claims, recite further patentable subject matter, and are patentable for the same reasons.

It is further submitted that the rejections under 35 USC §103(a) are improper and constitute clear, reversible legal error and requests that they be withdrawn for at least the two reasons set forth below, namely that (1) there is no properly articulated rationale for combining the references in the manner suggested by the Examiner and (2) even if the references are combined, they do not disclose all of the features of Applicant's broadest claims, as recited in the claims.

Favourable reconsideration and allowance of the application are respectfully requested. Should the Examiner have any questions in connection with the Applicant's submissions, please contact the undersigned.

Respectfully submitted,

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Date: November 13, 2008

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